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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/574,593

04/04/2006

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ZAHFRIP843US

4245

20210 7590 07/29/2008
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EXAMINER

PANG, ROGER L

ART UNIT

PAPER NUMBER

3681

MAIL DATE

DELIVERY MODE

07/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/574,593	Applicant(s) BAASCH ET AL.	
	Examiner Roger L. Pang	Art Unit 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-50 is/are pending in the application.
- 4a) Of the above claim(s) 27-31, 34-42, 44, 45 and 48-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26, 32, 33, 43, 46 and 47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4-4-06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following action is in response to the election filed for application 10/574,593 on May 30, 2008.

Election/Restrictions

Claims 27-31, 34-42, 44-45, and 48-50 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 30, 2008.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 26, 32-33, 43 and 46 are rejected under 35 U.S.C. 102(e) as being anticipated by Gumpoltsberger '011. With regard to claims 26, 32-33, 43 and 46, please see Fig. 11.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

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Claims 26, 32-33, 43 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Terumitsu '946 (from IDS). With regard to claims 26 and 32, Terumitsu teaches a transmission for distributing drive torque, the transmission comprising: a first planetary gearset 24 having at least a first shaft, a second shaft, and a third shaft; the first shaft 29 of the first planetary gearset being connected to a drive input shaft; the second shaft 33 being an output shaft; and the third shaft 28A communicating with a controllable and regulated active connection; a second planetary gearset 25 having at least a fourth shaft, a fifth shaft, and a sixth shaft; the fourth shaft 29 of the second planetary gearset being connected to the drive input shaft; the fifth shaft 34 being another output shaft; and the sixth shaft 28B communicating with the controllable and regulated active connection; the third shaft of the first planetary gearset communicates with the sixth shaft of the second planetary gearset by the controllable and regulated active connection 36, an operating-status-dependent torque of one of the third shaft and the sixth shaft can be supported as a function of an operating status of another one of the third shaft and the sixth shaft via the active connection such that if a rotation speed difference occurs between the second and the fifth shafts a speed-difference-changing torque is applied by the active connection at least for a time to the first and the second planetary gearsets, and such that the fourth shaft of the second planetary gearset is connected directly to the drive shaft and a gear wheel 62 mounted on a housing is provided between the first shaft of the first planetary gearset and the drive shaft. With regard to claims 33 and 43, Terumitsu teaches the transmission, wherein the active connection between the two third shafts of the first planetary gearset and second planetary gearset is formed by a continuously variable transmission ratio device (Fig. 10). With regard to claim 46, Terumitsu teaches the transmission, wherein the transmission provides power to a

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drive train of a vehicle with a drive-power source, with at least two driven vehicle axles 50, the transmission is arranged in at least one of a power path between the drive-power source and the two driven vehicle axles for distribution of drive torque from the drive engine between the two driven vehicle axles as necessary and in an operating-situation-dependent manner, and in a power path of one of two driven vehicle axles for the distribution of a fraction of the drive torque delivered to the two driven vehicle axles in a transverse direction of the vehicle between two drive wheels of two driven vehicle axles (Fig. 10).

Claim 43 is rejected under 35 U.S.C. 102(b) as being anticipated by Shibahata '977 (from IDS). Shibahata teaches a transmission for distributing a drive torque to at least two drive output shafts with at least first and second planetary gearsets PL,PR having at least three shafts, such that one respective shaft 5 of one of the at least first and second planetary gearset is connected to a drive input shaft and one respective shaft of each of the at least first and second planetary gearsets constitutes one of the drive output shafts 3L/3R, in each case with at least one further shaft of each planetary gearset connected to a shaft 12L/12R of the other planetary gearset by a controllable and regulated active connection 9, and an operating-status-dependent torque of one shaft is supported as a function of an operating status of the respective other shaft actively connected thereto via the active connection such that if a rotation speed difference occurs between the output shafts a speed-difference-changing torque is applied by the active connection at least for a time to the at least first and second planetary gearsets and such that the active connection between the two third shafts of the first planetary gearset and the second planetary gearset is formed with a continuously variable transmission ratio device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibahata as applied to claim 43 above, and further in view of Murakami '954. With regard to claim 46, Shibahata teaches the transmission wherein the transmission provides power to a drive train of a vehicle with a drive-power source E, with at least a driven vehicle axle 3L/3R, the transmission is arranged in at least one of a power path power path of said driven vehicle axle for the distribution of a fraction of the drive torque delivered to the driven vehicle axle in a transverse direction of the vehicle between two drive wheels WL/WR of driven vehicle axle. Shibahata lacks the specific teaching of the vehicle having two driven vehicle axles. Murakami teaches a similar transmission, wherein 2 vehicle axles 4/10 are driven, the second axle is driven from the input of the first axle. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Shibahata to employ two driven axles in view of Murakami in order to have better traction control. With regard to claim 47, Murakami teaches the drive train, wherein in the power path between the drive-power source 2 and the two driven vehicle axles 4/10, a controllable clutch 7 is provided for distribution of drive torque from the power source between the two driven vehicle axles as necessary and in an operating-status-dependent manner.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zaunberger, Gleasman, Dorgan and Hasegawa have been cited to show similar transmissions and active connections.

FACSIMILE TRANSMISSION

Submission of your response by facsimile transmission is encouraged. The central facsimile number is (571) 273-8300. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.

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Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on _____ (Date)

Typed or printed name of person signing this certificate:

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roger L. Pang whose telephone number is 571-272-7096. The examiner can normally be reached on 5:30am to 4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Roger L Pang/
Primary Examiner, Art Unit 3681

Roger L Pang
Primary Examiner
Art Unit 3681

July 25, 2008